



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590



REPLY TO ATTENTION OF:
SE-5J

DATE: April 1, 2011

SUBJECT: Certification of Eligible Disbursement Request - Allied Paper/Portage Creek/Kalamazoo River Superfund Site, and Request for Disbursement from Special Account (059B_05)

PD#2

FROM: Sam Borries, On-Scene Coordinator
Emergency Response Branch 2 - Section 3

Sam Borries

TO: Linda Haile, Accountant and Richard Hackley, Chief
Program Accounting and Analysis Section

Dale Meyer, Regional Comptroller
Comptroller Branch

This disbursement involves the Allied Paper/Portage Creek/Kalamazoo River Superfund Site, Site No. 059B-05, in Allegan and Kalamazoo Counties, Michigan.¹

On June 8, 2009, an Administrative Settlement Agreement and Order on Consent for Removal Action (Settlement Agreement) was entered into between the U.S. Environmental Protection Agency (U.S. EPA) and Respondents (V-W-'09-C-925) pursuant to Sections 104, 106(a), 107 and 122 of CERCLA. Among other provisions in the Settlement Agreement, such as completion of the remedy, EPA shall disburse funds from the Allied Paper, Inc./Portage Creek/Kalamazoo River special account to the Respondent in accordance with the procedures and milestones for phased disbursement as indicated below.

The funds in the Kalamazoo River Special Account² derive from settlements with Plainwell Inc. and Weyerhaeuser, two non-performing Potential Responsible Parties (PRPs) who at one time owned the Plainwell Mill, and who Region 5 currently believes, jointly account for approximately 10% of the paper-production on the Kalamazoo River.

¹ Acct. info. 2009/TR2/05F/302EC7/BOC36/059B(UZ)05

² The Kalamazoo River Special Account currently contains approximately \$13 million. However, up to \$6.2 million of these funds will be paid to Weyerhaeuser Company under the terms of its settlement with the United States (Feb. 15, 2005). Additionally, we have agreed to disburse \$1.5 million to PRPs performing the work on the Plainwell Impoundment pursuant to the 2007 AOC for time-critical removal action.

The use of the special account funds for this purpose is consistent with both U.S. EPA guidance and the Weyerhaeuser consent decree, *i.e.* to fund response work on the Kalamazoo River. It is therefore appropriate that monies collected by U.S. EPA from settlements with former and current owners of the Plainwell Mill be used to fund cleanup activities on the Kalamazoo River.

Paragraph 39 of the Settlement Agreement requires U.S. EPA to disburse funds from the Kalamazoo River Special Account to Respondents in accordance with the following milestones:

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|----|--|---|
| 1. | U.S. EPA written notice that all Work associated with mobilization has been | \$100,000 of the funds in the Special Account |
| 2. | U.S. EPA written notice that all Work associated with the first year of construction has been completed successfully | \$1,000,000 of the funds in the Special Account |
| 3. | U.S. EPA Notice of Completion of the Work | \$ 900,000 from the Special Account |

U.S. EPA has received cost summaries and certifications for this third and final milestone. U.S. EPA has previously provided Respondents written notice that the third milestone, notice of completion of work, has been successfully completed. U.S. EPA has reviewed the cost summaries and certification provided by the Respondents and finds them acceptable. Therefore, it is recommended that the Region make arrangements to make payment in the amount of \$900,000 from the Special Account³ via wire transfer to the following account (from Settlement Agreement):

Bank: JP Morgan Chase
Bank City & State: Chicago, IL
ABA# 021-000-021
Swift: CHASU33
Account Name: Georgia-Pacific Financial Management LLC
Account #: 59-50945
Reference: Kalamazoo Disbursement Fund

Please contact Sam Borries, OSC at (312) 353-8360, or Leslie Kirby-Miles, ORC, at (312) 353-9443, if you have any questions concerning the above.

³ Special Account No.- 059B(UZ)05